



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 30081974

Date: MAR. 5, 2024

Motion on Administrative Appeals Office Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner is a public relations (PR) director who seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner had demonstrated international recognition through a one-time achievement nor shown that she satisfied at least three of ten initial evidentiary criteria, as required.¹ We dismissed a subsequent appeal. The matter is now before us on combined motions to reopen and reconsider.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the motions.

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

On motion, the Petitioner submits a legal brief and a copy of our prior decision dismissing the appeal. In the legal brief submitted on motion, the Petitioner primarily focuses on two issues that we previously reserved in our decision and only summarily addresses the issues that served as grounds for our dismissal of the appeal. The Petitioner does not offer new facts to be considered in support of this motion. The Petitioner therefore has not shown a proper cause for reopening.

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings

¹ The Director concluded that the Petitioner had not satisfied any of the claimed evidentiary criteria.

at the time of the decision. 8 C.F.R. § 103.5(a)(3). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit.

On motion, the Petitioner contests the correctness of our prior decision in which we addressed the Petitioner's claim that she met at least three out of ten criteria.² We noted that the Petitioner originally claimed to have satisfied the following six criteria listed at 8 C.F.R. § 204.5(h)(3), summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material about the individual in professional or major media;
- (v), Original contributions of major significance;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), High remuneration for services.

We noted, however, that on appeal the Petitioner claimed eligibility on the basis of five criteria listed at 8 C.F.R. § 204.5(h)(3)(ii), (iii), (v), (viii), and (ix). Also, pursuant to 8 C.F.R. § 204.5(h)(4), she claimed that she has submitted evidence that is comparable to the criterion at 8 C.F.R. § 204.5(h)(3)(i).

In dismissing the appeal, we determined that the Petitioner did not establish that she meets the criterion at 8 C.F.R. § 204.5(h)(3)(i) or that she provided evidence comparable to that criterion. We then concluded that the Petitioner did not establish that she met the three criteria listed at 8 C.F.R. § 204.5(h)(3)(ii), (iii), and (ix).

As a result of our adverse determinations regarding the above listed criteria, we declined to address the remainder of the Petitioner's claim regarding the criteria at 8 C.F.R. § 204.5(h)(3)(v) and (viii), which require evidence of the Petitioner's original contributions of major significance and evidence of her leading or critical roles in organizations or establishments with a distinguished reputation, respectively.

On motion, the Petitioner relies primarily on the two reserved criteria – original contributions and leading or critical role – and only summarily addresses the criteria that served as the basis for our dismissal of the appeal. The Petitioner claims that she provided “overwhelming evidence” of her “significant and original contributions to the field” by showing that she meets six criteria “where the

² The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement, that is, a major, internationally recognized award. If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x), including items such as awards, published material in certain media, and scholarly articles. The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to the individual's occupation.

minimum requirements are merely to pass muster under three.”³ Specifically, the Petitioner states the following regarding the previously claimed criteria:

[The Petitioner]’s extensive PR work with major, distinguished national and international organizations in Russia in leading and critical roles were considered having passed muster. In addition, [the Petitioner] has been elected as a member after rigorous selection criteria to professional organization [sic] that is limited to the most elite in the field. Other revered experts in the Public Relations field predicate selections to the post on a review of her membership criteria. Her expertise and extraordinary work on distinguished PR projects have also resulted in several PR industry awards. Her outstanding work has been covered by major media outlets. Cumulatively, her work in the PR field has also resulted in several original contributions to the field and her novel PR methods have been used by university professors Finally, her high salary in Russia indicates that she is indeed an extraordinary PR professional who has substantially contributed to her field of endeavor.

In sum, the Petitioner restates her claim regarding the criteria listed at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (v), (viii), and (ix), but she does not offer a cogent argument to demonstrate that we incorrectly applied the law or USCIS policy in our prior decision. *See Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006) (finding that a motion to reconsider is not a process by which the party may submit in essence, the same brief and seek reconsideration by generally alleging error in the prior decision).

Accordingly, although the Petitioner disagrees with our decision dismissing the appeal, she offers no new facts that warrant a reopening of this proceeding, nor does she establish that our prior decision was incorrect as a matter of law or policy. Because the Petitioner has not demonstrated that this motion meets the requirements for a motion to reopen under 8 C.F.R. § 103.5(a)(2) or the requirements of a motion to reconsider under 8 C.F.R. § 103.5(a)(3), we will dismiss the combined motion. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

³ As noted, the Petitioner altered her original claim on appeal, basing her eligibility on the five criteria listed at 8 C.F.R. § 204.5(h)(3)(ii), (iii), (v), (viii), and (ix) and, and further claiming that she submitted evidence that is comparable to the criterion at 8 C.F.R. § 204.5(h)(3)(i).